

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department - Revision Petition filed by Smt.Kotha Saroja W/o Rangaiah R/o Subhash Chandra Bose Nagar, Ramavaram (V) Kothagudem (M), Bhadradi Kothagudem District aggrieved by the orders of the Agent to Government and District Collector, Khammam in C.M.A No.57/1998, dated: 15-01-2003 - Rejected - Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 33

Dated: 29-09-2018,
Read the following:-

- 1) Revision Petition filed by Smt.Kotha Saroja W/o Rangaiah R/o Subhash Chandra Bose Nagar, Ramavaram (v) Kothagudem (M), Bhadradi Kothagudem District Dt:24.02.2003.
 - 2) Govt.Memo.No.26417/TW.LTR-2/2003-1, dated 26.08.2003 & 24.04.2007.
 - 3) From the Agent to Government and District Collector, Khammam, Letter F2/CMA-57/1998(RP No.26417/LTR-2/2003-1), dated 13.06.2008.
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ORDER

In the reference 1st read above, Smt.Kotha Saroja W/o Rangaiah R/o Subhash Chandra Bose Nagar, Ramavaram (v) Kothagudem (M), Bhadradi Kothagudem District has filed Revision Petition before the Government aggrieved by the orders of the Agent to Government and District Collector, Khammam in C.M.A No.57/1998, dated: 15-01-2003 in respect of land to an extent of Acres 10.19 gts in Sy.No.23 of Ramavaram (V), Kothagudem, Khammam District.

2. In the reference 2nd read above, the Agent to Government and District Collector, Khammam was requested to furnish Para Wise Remarks and connected case records and in the reference 3rd read above the Agent to Government and District Collector, Khammam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- The order of the lower authority is contrary to law, material evidence on record and facts and circumstances of the case.
- The lower authority ought to have seen that primary authority without providing opportunity of being heard the petitioner, the order has been passed as such the said order is illegal, arbitrary and violative principles of natural justice.
- Both the authorities have failed to appreciate that the transaction is prior to 1/70 and the transaction is between non-tribals and no tribals interest is involved, as such both the orders are or sustainable either in law or on facts.
- The Agent to Government has erred in rejecting the documentary evidence without recording the findings and in fact the Revenue Courts have no Jurisdiction to adjudicate the sale deed about its validation.
- The respondent has failed to appreciate that the Revenue receipts which shows the possession of the appellant/petitioner placed before him.

4. The remarks of the Additional Agent to Government, Bhadrachalam on the Revision Petition are as under:

- The lower court has not deviated any procedure as laid under the Act. The Lower Court as well as appellate authority after verifying the material documents filed by the appellant have rightly concluded the proceedings in the matter, since the transaction of the land in question was made in between two Non-tribes, in contravention of the LTR Act, ordered ejectment of the Respondent therein and accordingly dismissed the appeal filed before the appellate authority. Therefore, the lower court and appellate authority have not deviated the procedure as laid under the act. Therefore, the ground raised by the RP is baseless.

[p.t.o]

- The Special Deputy Collector(TW), in its order dated 25-7-1998 in case No.83/95/Kgm, clearly held that requisite notices initiating the date of appearance were issued to both the parties as per rules in force and got served. It is also evident that this case was called on 10-06-1998, 04-07-1998 and again on 25-7-1998. On each occasion both the parties were absent.
- The Respondent therein who is the Revision Petitioner herein has failed to attend the court and also failed to reply to the 'E'-Notices under the Act and failed to produce the documentary evidence in support of her claim over the suit land to prove her possession prior to enforcement of Regulation. Therefore, it was held proved that the Revision Petitioner had no valid records to produce. Hence, it was construed that she entered the suit land after the AP (SA) LTR Act, 1/1959 read with Regulation 1-1970 came into force that is on 3-2-1970, which is void under law.
- It is also clear from the order of the Agent to Government that after taking several long adjournments, this case was called on 15-3-2002, the appellant attended and argued. After hearing, the Agent to Government(appellate authority) concluded that the land under dispute in the case is situated in Scheduled area and the transfer of land is made by a non-tribal to another non-tribal in contravention to the provisions of Sub-section 3 of Andhra Pradesh Scheduled Areas Land Transfer Regulation Act, 1/1959, read with amended Regulation 1/1970 and hence it is null and void. Hence the Agent to Government dismissed the Appeal on 15-1-2003. Therefore the contention of the Revision Petition raised in this para is false and far from reality. Hence denied.
- In spite of service of notices, the Respondent therein failed to appear before the Special Deputy Collector (TW), Paloncha and produce any documentary evidence in support of the claim. The Revision Petitioner herein also failed to file corroborative evidence in support of her claim except sada sale Agreement which is alleged to be a bonafide document. In the absence of corroborative evidences to substantiate her claim over the suit land, the Sada Sale Agreement is not a conclusive proof. As per the observation made by the Hon'ble High Court Judgement, Andhra Pradesh, Hyderabad, in CRP No1087/96, dt 10-08-1998, that "*sada sale deed not duly stamped and registered under section 17(b) of Registration Act, can not be admitted as an evidence, in Bangaru Rama Tulisamma V/s Yada Mastan Reddy and others case*".
- Further it is submitted that, it is a well settled law that right title and interest of the vendor extinguished only by executing deed of conveyance duly registered under Registration Act. Hence, it cannot be admitted, as primary or substantiate evidence of any other primary proof exists. And also, under section 54 of Transfer of Property Act, delivery of tangible immovable property of the value of Rs.100/- and upward or in case of reversion or other in tangible thing can be made only by a registered instrument. In the instant case, it is agreement of sale of immovable property worth Rs.1470/-. So it requires registration. From the above, it is clear that the appellate authority has rightly confirmed the orders passed by the Special Deputy Collector (TW), Paloncha. Therefore the ground is untenable.
- It is clearly held in the order of Agent to Government the Revision Petitioner has accepted before the Agent to Govt. that the transfer of land under dispute took place, between the two non-tribals and it is on an agreement of sale for a consideration of Rs.4000/- per acre. It is further held that on verification it is found that the sale agreement is made on a simple white paper which cannot be admitted as evidence, either primary or substantive evidences, the Revision Petitioner has filed hand receipts, which were said to be passed by the 'Patwari' towards the Land Revenue paid to the Government for the land under dispute. These are on white papers and in the shape of hand slips, these slips are not containing any official seal or stamps or not even any officer's attestation. Thus, it is very clear that all the slips are filed for the purpose of establishing a case to overcome from the clutches of Land Transfer Regulation provisions.
- From all the above, it is clear that the Revision Petitioner in order to establish his right over the suit scheduled land created all these documents with malafide intention. Therefore, the appellate authority did not consider the documents as

(contd...3)

bonafide. Hence dismissed the appeal within the jurisdiction allowed by the Land Transfer Regulation, Act. Therefore, the contentions of the Revision Petitioner in this para need no consideration as they do not carry any valid merits.

- The order of the Special Deputy Collector (TW), Paloncha passed orders on 25.07.1998 in LTR case No. 83/98/Kgm and the order passed on 15.01.2003 in CMA No. 57/98 by the Agent to Government, Khammam may be taken for considering the facts along with the remarks submitted above.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Agent to Government, Khammam it is observed that;

- The Revision Petitioner claims that he has purchased the land on 23.12.1968 through a sada sale deed, Sada Sale deed is not valid document. Nothing is prevented the Revision Petitioner to get it registered on 23.12.1968. Hence Land Transfer Regulation is applicable in this case.

6. Government after careful examination of the matter hereby rejects the Revision Petition of Smt.Kotha Saroja W/o Rangaiah R/o Subhash Chandra Bose Nagar, Ramavaram (v) Kothagudem (M), erstwhile Khammam District and now Bhadradi Kothagudem District and hereby upholds the orders of the Agent to Government and District Collector, Khammam dated: 15-01-2003 in C.M.A No.57/1998, in respect of land to an extent of Acres 10.19 gts in Sy.No.23 of Ramavaram (V), Kothagudem, Khammam District.

7. The Agent to Government and District Collector, erstwhile Khammam District now Bhadradi Kothagudem District shall take necessary further action accordingly. The original case records received in the reference 3rd read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA
SECRETARY TO GOVERNMENT

To

1) Smt.Kotha Saroja W/o Rangaiah
R/o Subhash Chandra Bose Nagar, Ramavaram (v)
Kothagudem (M), Erstwhile Khammam District and
now Bhadradi Kothagudem District

2) Smt.Boddu Rajamma, W/o Rama Rao,
C/o Raja Rajeswari Talkies, Paloncha, Erstwhile Khammam District and
now Bhadradi Kothagudem District

3) The Agent to Government and District Collector,
Erstwhile Khammam now Bhadradi Kothagudem District(w.e.)

Copy to :

The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Bhadradi Kothagudem District
The Special Deputy Collector(TW), Paloncha, Bhadradi Kothagudem District.
for information and necessary action.

The Tahsildar, Pinapaka Mandal, Khammam District for necessary action.

Sri T.L.K.Sharma, Advocate,

1-3-183/40/68/C/2, SBI Colony, Gandhinagar, Hyderabad- 500 080.

P.S to M(TW)/P.S. to Secretary(TW)

SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER